

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE HARBOR AT HARRODS CREEK)	
CONDOMINIUM ASSOCIATION)	
)	
COMPLAINANT)	
)	
v.)	CASE NO. 2000-00379
)	
FOURTH AVENUE CORPORATION - LONG)	
CORPORATION, JOINT VENTURE D/B/A SHADOW)	
WOOD SUBDIVISION SEWER SERVICE)	
)	
DEFENDANT)	

O R D E R

Per the request of the Complainant, the Commission Staff has prepared a memorandum in this case regarding Defendant's concurrent rate case. The memorandum is attached hereto as Appendix A.

IT IS THEREFORE ORDERED that:

1. Within 10 days of the date of this Order, Complainant may file any motions that it deems fit.
2. Should Complainant file any motions, Defendant may, within 10 days of the filing of Complainant's motion, file with the Commission any response as it deems necessary.
3. Notwithstanding the filing of any motions, parties may, within 30 days of the date of this Order, file with the Commission written briefs.

4. Upon the filing of briefs, if any, this matter shall stand submitted to the Commission for a final decision.

Done at Frankfort, Kentucky, this 27th day of March, 2002.

By the Commission

ATTEST:


Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2000-00379 DATED March 27, 2002

MEMORANDUM

TO: Main Case File

FROM: J.E.B. Pinney, Staff Attorney

RE: 2000-379: Commission Staff Communications with Defendant

DATE: 3/26/2002

INTRODUCTION

This memorandum arises in response to Complainant's concern regarding Commission Staff communication with the Defendant during the course of the proceeding of this complaint. In particular, Complainant requests that the Commission clarify the letter sent to Defendant on October 12, 2000 informing Defendant to apply the commercial rate to the Complainant's Clubhouse. This memorandum will provide the circumstances surrounding this communication and also will explain, briefly, the process by which Commission Staff processes tariffs and tariff changes.

FACTS

In 1998 the Commission's Financial Analysis Division conducted a limited financial examination of Defendant. During the course of the examination, Commission Staff discovered that Defendant was charging an untariffed \$50 per month fee for the Harbor's clubhouse. Commission Staff directed Defendant to amend its tariff to reflect the monthly charge. For reasons unknown, Defendant did not attempt to make such amendment until September 28, 2000. On July 28, 2000, Complainant filed its complaint against Defendant, alleging, among other things, that Defendant was improperly charging a \$50 per month charge for its Clubhouse.

Upon receipt of Defendant's amended tariff sheets, Commission Staff processed the proposed changes.¹ Generally, when filing a tariff revision, a utility files with the Commission a cover letter explaining the requested revision along with any supporting documentation and the revised tariff sheets. The filing is assigned a unique tracking number by the tariff review branch and a copy of the tariff sheet is circulated to the

¹ Commission Staff assigned the proposed tariff revisions #61-1340.

divisions of the Commission.^{2 3} Staff members return their comments to the tariff filing person assigned to process the filing. The tariff filing person then contacts the utility and notifies the utility of acceptance or rejection and or requests clarifications or revisions.

In this case, Defendant's tariff filings returned to the tariff branch containing comments from the other divisions indicating that the change Defendant sought to make in its tariff required a formal rate case application and hearing. Sam Reid, then a member of the Commission's tariff branch, contacted Defendant's office manager and informed her that the Commission was rejecting the proposed tariff changes. Mr. Reid also informed Defendant that, pursuant to Commission policy, Defendant may request staff assistance in a rate case. Mr. Reid also informed Defendant of the rejection via posted mail, dated October 12, 2000. Mr. Reid informed the Defendant that because the proposed changes were a change in existing rates, the filed tariff proposals were rejected. If the defendant wishes to make changes to its rates, it would have to apply for a formal rate case.

At some point after receiving the October 12, 2000 letter, Defendant contacted Commission Staff and requested Staff assistance in a rate case. The Commission granted this request and Scott Lawless, of Commission Staff, proceeded to work with Defendant in preparing a rate case application. These contacts are not documented nor memorialized but at no time did Commission Staff or Defendant discuss the complaint in this case.

² The divisions are: Financial Analysis, Engineering, General Counsel, Research, Filings, and Consumer Services.

³ Please note that this is a separate procedure from case filings.